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TAGS: [ETRD](#) [BR](#) [FTAA](#)

SUBJECT: BRAZILIAN RESPONSE TO FTAA DEMARCHE

REF: SECSTATE 44578

Classified By: Economic Officer Janice Fair for reasons 1.5 (b) and (d)

Summary

¶1. (C) Econoff delivered reftel talking points to Regis Arslanian, Itamaraty Director for International Trade, and Tovar da Silva Nunes, Itamaraty FTAA Coordinator and member of the Brazilian Co-Chair team, on March 4. In responding, they conveyed a constructive attitude, albeit without signaling a major change in Brazilian positions. Both noted that Foreign Minister Amorim had repeatedly instructed the Ministry's technical level to "be problem solvers" so that the common set of rights and obligations, and the plurilateral procedures could be finalized. Neither Arslanian nor Da Silva Nunes gave any indication that Brazil would retreat from concessions made by Mercosul during the course of the Puebla Trade Negotiations Committee (TNC) meeting in February.

¶2. (C) Nunes suggested that U.S. and Brazilian Co-Chair teams would inevitably have to work together to draft a paper that would bridge current positions. He claimed that Chile had approached the Brazilian Co-Chair with the idea, saying that it would be necessary given the difficulty national delegations will have in moving off their respective positions. He appeared anxious to start this process, perhaps immediately following the informal discussions in Buenos Aires March 9-10. He also suggested that Co-Chairs should immediately explore how to minimize differences in the procedures paper, since time during the next Puebla meeting will be limited.

¶3. (C) While Nunes seemed to grasp the talking point without difficulty, Arslanian was initially confused by our suggestion that basic elements of the common set need to be decided, but that delegations should put this result at risk by attempting to resolve every issue in detail. At first he mis-interpreted this as signaling U.S. willingness/interest in carrying over some discussion of common set elements (not just details) to a future TNC, even though Negotiating Groups would already be reconvening. He asked, for instance, if the U.S. would be willing to put off discussion of a special agricultural safeguard. He emphasized that an adequate number of elements need to be defined so that Negotiating Groups have sufficient guidance to allow their work to proceed. Econoff and Econcouns clarified that the point was simply not to let insistence on full resolution of every detail stand in the way of achieving agreement on "the elements of the common set."

¶4. (C) Arslanian saw this issue as connected to the G-14 proposal that the common set paper explicitly state that additional provisions may be included in the common set of rights and obligations in the future, as may be agreed. Nunes claimed that such a statement just isn't necessary, since any delegation has been and would remain free to raise any issue it so chooses. Arslanian claimed his concern over this proposal was due to potential gridlock should delegations start raising new issues in the Negotiating Groups during common set discussions. When Econoff inquired whether the provision would be less problematic if additional provisions were raised at the TNC level rather than in Negotiating Groups, Nunes answered "maybe."

Market Access

¶5. (C) Looking at the key areas of disagreement, Arslanian kept returning to market access, emphasizing that it is the crucial area for Brazil. Specifically, he focused on proposed language for defining the scope for tariff reduction in the common set. Brazil needs the proposed "significant improvement in market access conditions" language, Arslanian argued, to demonstrate that it is gaining something in the common set. He also inquired about the possibility of commencing with Mercosul-US market access negotiations even if some elements of the common set remained undefined, such as the scope of tariff reduction. Clarifying that we were not in a position to provide an official response, Econoff pointed out that past U.S. position was that agreement needed

to be reached on the common set before these market access discussions could proceed.

Agriculture

¶ 16. (C) Nunes went through the common set elements on agriculture. On export subsidies, he said he was trying to explore formulations that address the U.S. interest in linking the elimination of export subsidies and the deterrence of subsidized products from non-FTAA countries, but which don't make causality between them explicit. His general idea is to present the concepts as a package -- export subsidies are eliminated, and there are efforts at deterrence -- but the former (elimination) is not predicated on the latter (deterrence). He also wondered aloud whether the definition for export subsidies could be left for the Negotiating Group on Agriculture to decide.

¶ 17. (C) As a matter of principle, Mercosul does not believe there should be any product differentiation with regard to safeguards; agricultural products should be dealt with under the same mechanism as industrial products, according to Nunes. He claimed that Mercosul had had "bad experiences" with Andean trading partners, leading them to conclude that special agricultural safeguards are too prone to use for protectionist purposes. Neither Nunes nor Arslanian responded directly when Econoff suggested that rather than rejecting a special agricultural safeguard outright, perhaps Mercosul's concerns about possible abuse could be addressed in the specifics of how the safeguard mechanism would operate -- a level of detail beyond what is sought in the common set document.

¶ 18. (C) On domestic support, Nunes claimed that it would be very difficult for Mercosul to accept elimination from the common set document of any reference to "mechanisms to neutralize the effects of distorting measures..." Drawing on points in reftel, EconOff reaffirmed that the U.S. is not prepared to address domestic support within the FTAA and we see this as an area in which Mercosul ambition must be lowered. Nunes said that he is discussing the issue with Mercosul colleagues to find out the exact needs of the group, and claimed it was helpful to know that language on a neutralization mechanism relating to domestic support was a non-starter for the United States.

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¶ 19. (C) Nunes claimed that this was not a problematic area, in that Mercosul had backed off trying to obtain changes to U.S. legislation.

Environment and Labor

¶ 10. (C) Nunes and Arslanian expressed surprise that the USG had not pushed for explicit labor and environment language in the common set document. Nunes said that they figured the G-14 proposal for language on the Technical Committee on Institutional Issues (TCI) was designed to allow for introduction of provisions within the TCI Chapter. Nunes said there was recognition that the USG is under TPA mandate to seek inclusion of these issue areas and suggested that it may be possible to formulate text for the common set document that would leave that door open for possible future consideration of proposals on labor and environment provisions, while not highlighting the opening. For instance, he offered that one possibility may be to eliminate both "exclusively" and "but not limited to" from the various TCI text proposals.

Private Sector Reactions

¶ 11. (U) In recent weeks, both the Brazilian Business Coalition (CEB), a broad based group formed to consult with the GOB on trade matters, and agroindustry groups have appealed to Itamaraty for flexibility so as to secure greater market access concessions from the United States. Brazilian agroindustry has been most vocal, admonishing Itamaraty for its ideological stance on industrial policy, and pushing for increased GOB concessions in services, investment and government procurement.

¶ 12. (U) In a paper submitted to Itamaraty on February 27, the CEB reportedly reiterated the private sector's objective of obtaining concrete results in the negotiation, and its understanding that to achieve this Brazil would have to demonstrate greater flexibility. The CEB is said to have made the following specific recommendations: market access - Itamaraty should show flexibility regarding its initial proposal for total tariff elimination by accepting that a small number of products would be subject to tariff reduction, rather than tariff elimination; services - the GOB should present a single offer, rather than pursue market access bilaterally (regional MFN upon entry into force) and commit to GATS-plus in terms of market access and national treatment; and on investment - recommends a market access

agreement restricted to investment rights and negotiated on the basis of a single offer which also covers investors without a physical presence.

Comment

¶13. (C) The constructive attitude espoused by Arslanian and Nunes in this latest meeting is consistent with what we see as a more positive GOB stance toward the FTAA post-Miami. Despite negotiating positions designed to maximize the outcome for Brazil/Mercosul, the GOB has publicly and privately stressed its seriousness in working to gain consensus on the common set, and on plurilateral procedures so that negotiations can move forward. Foreign Minister Amorim appears to be attaching considerable significance to implementation of the compromise framework he "personally" formulated with USTR Zoellick, so that long awaited market access negotiations with the United States can move forward.

¶14. (C) Caution may be in order in, however, in evaluating Nunes' suggestions and ideas, which do not always reflect accepted thinking within the GOB, let alone Mercosul. Likewise, it is not clear whether his enthusiasm for drafting Co-Chair proposals is shared by the Brazilian Co-Chair, Ambassador Adhemar Bahadian.

¶15. (C) Despite the heightened pressure being exerted by parts of the Brazilian private sector following the February Puebla TNC, neither Arslanian nor Nunes mentioned any possibility of increasing Mercosul's level of ambition in services, investment, government procurement, or IPR in return for greater USG flexibility on market access. Public statements by Antonio Simoes, Minister Amorim's economic advisor, also point to Itamaraty rejection of arguments that minimalist concessions in these areas are impacting the market access concessions being offered by the U.S. and others. Post does not expect these private sector appeals to have much impact on Itamaraty positions in next week's discussions in Buenos Aires or in the TNC meeting in Puebla.
VIRDEN